

## **SPECIAL MEETING CHARTER COMMISSION HEARING**

**January 15, 2003**

**5:00 PM**

Chairman Dykstra called the meeting to order.

Chairman Dykstra called for the Pledge of Allegiance; this function being led by Commissioner Shaw.

A moment of silent prayer was observed.

The Clerk called the roll.

Present: Commissioners Leona Dykstra, Bob Shaw, Donna Soucy, Brad Cook, Patrick Duffy, Keith Hirschmann, Leo Pepino, Nancy Tessier, Michael Wihby

Chairman Dykstra advised that the purpose of the public hearing is to receive input from city department heads, city officers and commissioners regarding proposed changes to the City Charter; that each person will be given only one opportunity to speak and any comments must be directed to the Chair.

Chairman Dykstra requested that anyone wishing to speak come forward to the nearest microphone, clearly state their name and department when recognized, and give their comments.

Chairman Dykstra stated that, before we begin, the clerk does have some information and a few comments she'd like to make at this time. Carol.

Deputy Clerk Johnson stated, Madame Chair, the clerk just wanted to note that there is a web site that's being established for the Charter Commission. It should be up and running by tomorrow, I am told. We had some difficulty getting it up, but Information Systems has done that. The minutes of all of these meetings after they have been approved by the Commission shall be placed on there, so people will be able to know what the minutes are saying. There also will be agendas of upcoming events that are going on by the Commission. In addition to that, it lists the membership of the Commission, and we also have a separate site under our web site with the city, and I will give that out at the end of this. That web site also contains the current City Charter. The old City Charter is not on there, but we do have copies available at the Clerk's office. Should somebody wish to go through

it or wants a copy of it, we would ask that they come to the Clerk's office. We'll be happy to make those available. The web sit is ci.manchester.nh.us. And with that, I will call from the list of sign-ups.

Chairman Dykstra stated yes, please do. We'll begin the hearing right now.

Deputy Clerk Johnson stated oh, I also wanted you to know. We did distribute to the Commission members for your reference the budget acts that were requested at the last meeting.

Chairman Dykstra stated okay, thank you, thank you Carol.

Kevin Clougherty, Finance Officer, stated:

Good evening. Madame Chairman, my understanding when I got the agenda on Friday was that departments were going to be given two minutes to speak, and we're a little confused on that.

Deputy City Clerk Johnson apologized for that, stating that it was an oversight.

Chairman Dykstra stated no, we're going to give you two and a half. We're going to let you speak as long as...well, quite a while.

Mr. Clougherty stated what happened is, because I was going to have two minutes, my plan tonight was to come in and say I need more than two minutes to speak to the Commission about all these issues. We need almost a night to talk about the finance issues, and say would it be okay to schedule some time in the future, a night for me to come back and give a presentation on all the various issues we have to talk on.

Chairman Dykstra responded certainly, we can do that.

Mr. Clougherty stated I would defer my other minute to Frank Thomas who asked for that.

Chairman Dykstra stated you are going to get more than the two minutes. We have changed that, so if there is anything else you still would like to probably touch on, or...

Mr. Clougherty stated no. There is a number of items I think we're going to have to cover. You know, I know you've been talking about some tax caps. You've been talking about some spending caps, some bond referendums. There's some ethics things that I think need to be put in place regarding city employees, and I think there's some other things regarding the budget act that we just need to cover,

and it's going to take some time. We'll probably do a formal presentation so that not only the Commission members but people at home watching can see what we're talking about and understand it. I'll ask if maybe Carol can work with my secretary to schedule a night that we can get together and do this in the future.

Chairman Dykstra responded that would be great. That would be very helpful to this Commission, and we do appreciate it.

Mr. Clougherty stated we appreciate it too. Thank you.

Frank Thomas, Director of Public Works, stated:

Thank you, Madame Chairman for giving me this opportunity to address the Commission. I know the Commission is reviewing numerous issues pertaining to the Charter. However, there was one issue that I felt that I should weigh in on. This issue pertains to the potential of restoring past duties and responsibilities to boards and commissions. I urge the Commission not to recommend any changes to the existing Charter as it does pertain to boards and commissions for the following reasons. Number one, the present charter facilitates the operations of departments by placing the responsibilities for the running of the departments with the department head, accountable to the Mayor and the Board of Aldermen. I guess you could compare this to the private sector in that a department head could be viewed as a senior vice president of a corporation heading up a division, reporting to the CEO and the CEO taking general directions and policies from the Board of Directors. Two, the department head is the most knowledgeable individual as it pertains to developing an operating budget; administering the operating budget; and carrying out the duties of his or her organization. The department head is a full time position. Under the old City Charter, a board or commission meeting monthly had full control in management of the department including the expenditure of all funds. Doesn't it make sense to have a full time employee administering these expenditures? Do we really want to add back a layer of bureaucracy? On a side note, and I've often wondered about this, did the old boards and commissions know the liability that they were assuming by assuming that authority for the expenditure of all funds? I'm not sure. Three, why do the residents want boards and commissions? I believe that they want a conduit to bring forward ideas, programs, and issues. I also feel that the residents of Manchester want another way for their voices to be heard. I think the Charter as is written right now carries out these functions. Four, the question may be raised as to what powers boards and commissions have now. I think they have a lot. They're appointed by the mayor. They're confirmed by the Board of Aldermen. As such, I would think that they would have direct access to the upper administrative decision-makers in the city. If there was a problem that was brought to the Mayor or the Board by a commission, the mayor has the authority to pass down corrective directives to the department head. The Board of Mayor

and Aldermen also has the ability to delegate certain administrative powers to a commission if there is a need to. So I think a commission or a board does have powers. I believe the last revision of the charter pertaining to boards and commissions have been working well, without problems. Why consider changes now, if you are considering changes? Why add back that layer of bureaucracy in a time when we're doing everything at the department head level to facilitate services, carry out services faster in a more cost effective manner, not delaying services? For these reasons, I urge the Commission not to change the duties and responsibilities of departments, boards, and commissions. Just in closing, I did submit some written testimony that I hope you will get. Again, I want to thank you for this opportunity to get up in front of you.

Robert McKenzie, Director of Planning and Community Development, stated: Good evening, Madame Chair and Commissioners. I should be able to do my spiel in two minutes or less, so at least follow some of those guidelines. Just very briefly, the Planning and Community Development Department in the city has three main functions. It handles or it provides administration of the growth management functions of the City which is new development, site plan subdivisions, and in that assists four local land use boards. The second is administering the Community Improvement Program, which is the bonding for capital projects and other special projects such as federal, and state grants that come through the City. And the third arm is the long-range planning and special projects that we work on. I mention that because I have four comments, two of them related to growth management and two of them related to the C.I.P. process. With respect to growth management there, again we provide the staff support, the city support to four local land use boards. That's the Planning Board, Zoning Board of Adjustment, Heritage Commission, and Conservation Commission. And the reason I bring that up is that they are different than other boards and commissions of the city. They are provided for under state law. Their rules, procedures, appointments are dictated by state law, so I did just want to point out that as you look at boards and commissions, you do have to draw a distinction between those local land use boards and other commissions such as the Fire Commission or Highway Commission. There are certain things that the Charter can provide for these Boards though, and one of those is term limits, and I did just want to—a second item—is to briefly touch on term limits. Local land use decisions can be some of the most controversial in any community. When you're building new developments in neighborhoods, and the neighborhoods are frustrated, that can be the most divisive in some communities, and you do need some expertise in order to handle that and bring it to a smooth conclusion. So to some extent, I would have some concerns about short-term term limits in that it does take a long time for let's say a Planning Board member or a Zoning Board of Adjustment member to learn the process, learn the legal implications of their decisions, learn something about engineering, architecture. And there is some

need, I think, for continuity on these boards as they go forward because, again, frequently land use boards are some of the most litigated of any of the boards in the city. Frequently either an abutter is unhappy with a local land use board or an applicant is unhappy, so it is litigated, and it's important that we as staff get the right information to the board, but the board has knowledge on their own on how to handle it. My third comment relates to the Community Improvement Program and its process. Right now, there's a process. Once a year, the Board adopts a Community Improvement Program. Frequently during the year, though, there's a need to amend that. For example, if we get a new federal grant. I know for example, homeland security may be having a grant money coming into the city, but it might not be on the same budget schedule as the city's C.I.P. program. The reason I bring up the process is that it can be somewhat cumbersome at times, and it's a double-edged sword. If a project needs at least seven votes at various Board levels and Board committees, it can take some time. The other edge of the sword though is it does make it a very open process. The public can provide input, and if mistakes are made, somewhere along the line then they can be corrected in one of those votes. The only thing that I would ask of the Charter Commission is that as you go forward that you don't necessarily make it any more cumbersome than it is now. I think it's adopted a fair balance between openness and ability to make mistakes and the time it takes to adopt new projects. If you do have any questions during your proceedings, I'd be happy to come back to the Committee to answer questions on the C.I.P. process, why it's a separate process, and if you're looking at any changes to it or improvements. My final comment also relates to the Community Improvement Program. The largest chunk of funds for that is from the City's bonding. Right now, the City enjoys one of the highest bond ratings of any city in New England. Bond rating agencies look at a number of factors when they do rate a city, but one of those is the City's financing and budgeting process. So again I would ask—I know Kevin Clougherty has asked to provide additional information—we would love to see our bond rating improve because right now, we have a lot of projects to do, but not enough money to do it. If our bond rating went down, we'd be able to do even fewer projects. So keeping a strong bond rating is important for the City to accomplish all the things we want to do, from school improvements to parks to highway construction. If there are changes in either the City's financing or budgeting system, it can affect the bond rating, and again, I would be happy to be available to the Commission to answer questions and give you my opinions on whether that might affect the City's bond rating or not. Kevin Clougherty does have bond assistants, bond consulting assistants also if the Commission would like that to give their interpretation on any events. That was my comments. Again, I'd be happy to answer any questions.

Commissioner Shaw asked what is the role of the Mayor on the Planning Board? Is he allowed to sit on the Planning Board because of the Charter or because of

state law? And is he allowed to pass his power to vote to somebody else? Can you tell me those answers?

Mr. McKenzie responded state law does not specifically mention the Mayor. It does say that elected officials, either one or two, may be on the Planning Board. It does allow...so that's the state law. It is City ordinance and not Charter that indicates that it is the Mayor in Manchester and one Alderman and that the Mayor may have a designee on the Board. There is a provision under state statutes to have designees, so I think it's consistent in that way, but I don't believe it mentions the Mayor in the state statutes.

Kevin Dillon, Director of the Airport, stated:

Good evening, Madame Chairman and Commissioners. Thank you for the opportunity to speak with you this evening. I'm going to be very brief. I did provide a letter to you outlining my position that I wanted to talk about tonight. Hopefully, you have that in front of you. From the airport perspective as it relates to the current charter, I do believe the Charter works very well for the airport. There is one issue that I wanted to address however, and that is vesting authority back into boards and commissions. I understand that that's a subject that the Commission has been discussing. Certainly over my twenty plus years in the aviation business, I've had the opportunity to work under a lot of different governance structures, and I certainly have to admit some functioned a lot better than others, but typically those organizations that functioned best had very clear lines of authority and responsibilities delineated as well as a very streamlined reporting function. Certainly the unique nature of the airport and the fact that the aviation industry is so highly regulated—we have an awful lot of existing oversight at the airport. That's on all levels, the local level, state level, and federal level. Currently, as the head of the department, I report to the Board of Mayor and Aldermen, but I also report to the special airport committee that's a subsection of the Mayor of Board and Aldermen. I also undergo a quarterly financial review by the Committee on Accounts which is another subcommittee of the Board of Mayor and Aldermen as well as the fact that I report regularly to the Town of Londonderry on a quarterly basis because two-thirds of the airport actually sits in the Town of Londonderry. Further, the fact that the airport is a regional transportation resource and impacts many southern New Hampshire communities, we also reach out to those communities, and I interact regularly with those elected officials in communities such as Bedford and Amherst and Merrimack. Additionally, there is tremendous federal government oversight because of the fact that we take federal grants and again because the aviation industry is so highly regulated. So you can see, we already receive a considerable amount of oversight, and I think to add the bureaucracy of an additional board would really be an injustice to the effective functioning of the airport. The Board of Mayor and Aldermen I do believe is the right choice to be the governing body for the airport.

Our operations are very much integrated into the administration of other departments. We rely on human resource activities, financial activities, other departments, so I think you certainly need an oversight body that has the global view of the City and a body that sets the vision for City operations, and that should be the Board of Mayor and Aldermen. And certainly they should hold department heads as professionals accountable for the performance of their individual departments. I would say though if the Commission elects to go in the direction of instilling authority into boards and commissions, I think, while I certainly do not think that's the right thing to do, if you do go in that direction, I would recommend that you do it fully because I think you would put an operation at the airport in a very difficult operating position if you required me to essentially serve two masters and report to two different boards. So I guess, you know, the bottom line is in the big scheme of things, it really doesn't matter who I report to, but the entity that I do report to has to have complete authority for financial decisions, operational decisions, and all of the resources at the airport. I don't think, you know, certainly I didn't work under the prior charter, but as it's been described to me, half of the decisions would go to board and commissions and half would go to the Board of Mayor and Aldermen, and that certainly would not work for the airport. Thank you.

Commissioner Duffy stated good evening, Mr. Dillon, how are you this evening? In the, well since the Charter Commission in its wisdom elected to decide to use the former Charter as the basis for this review, it makes a distinction in the boards and commissions between basic services departments and special services departments. Frank Thomas and the Department of Highways comes under basic services, and the airport as you know comes under the special services. Would you make a distinction between those two in terms of what responsibility boards and commissions would have between those two different distinctions that is made in the former charter?

Mr. Dillon responded I wouldn't make any distinction. A city department is a city department. I think we all rely on the same resources. I think if the airport, and this is something that I would recommend if you did install additional authority into boards and commissions, is that the airport should be under a structure similar to the Manchester Transit Authority or Manchester Housing Authority where the operation, the oversight, the management and all of the resources are all self-contained. But the fact that the airport, even as an enterprise fund, has to rely on City Clerk services, City Solicitor services, Human Resource services, I don't think an individual board can bring to the table for any one department oversight of all of those functions and do it effectively. That's why I think the Board of Mayor and Aldermen that has the global oversight of all of those operations within the city is best suited to do that. So what I'm recommending is if you elect not to go in that direction, which I do think is the right direction, is that you make the

airport all-inclusive, meaning that it would be responsible for its own human resources, its own financial functions, its own legal services, and every other resource that it would need, and then put it under the control of an independent board. I think that's the only way it would work.

Commissioner Duffy stated since you raised the issue of enterprise fund, I'm under the impression, and correct me if I'm wrong, that the airport does reimburse the city for those services you mentioned that provide administrative support if you will. Is that correct?

Mr. Dillon responded that's correct.

Commissioner Duffy stated okay, so it's not like those are coming, those services are being paid out of tax dollars.

Mr. Dillon stated the airport does not rely on any tax dollars whatsoever.

Commissioner Duffy stated that's my recollection. In addition, the airport also has an inter-municipal agreement. Would you, for the sake of clarity on the part of the Commission, explain that inter-municipal agreement and how that perhaps has a bearing on the airport that some of the other...most of the other departments...in fact all of the other departments I do not believe have that stipulation in their agreements?

Mr. Dillon responded sure. The fact the airport straddles both Manchester and Londonderry brings up unique issues to the airport, and the inter-municipal agreement which was originally created in 1981 laid out a framework for cooperation between Londonderry and Manchester. The agreement speaks to issues such as taxation, land use planning, emergency services that are provided to the airport. The agreement was updated in 1992. At that time, specifically to provide for tax exemptions for the new terminal that was being built around that time and did take the opportunity to update some of the land use language that existed at the time. We just recently reached an understanding with Londonderry to enhance the tax payments to Londonderry, the real property tax payments to Londonderry, and what the airport has achieved is greater oversight or greater control of the inter-action between airport tenants and the town of Londonderry. That was causing a lot of the tenants at the airport as well as the airport itself a lot of issues. We have not formalized that agreement yet. We're in the process of working through the City Solicitor's office as well as Londonderry's town counsel to effect that agreement, but it will certainly serve as the next generation of inter-municipal agreement, but essentially it's an agreement that lays out the framework for cooperation between Londonderry and Manchester.

Commissioner Shaw asked how much tax dollars on the businesses that are on airport property is returned to the city treasury or does it go into your own enterprise fund? Explain that.

Mr. Dillon stated, as far as the airport itself, the airport as an entity returning revenues to the City of Manchester, we cannot. We are prohibited from doing that by federal aviation revenue diversion regulations. We can make payments to the Town of Londonderry because they're not the host government for the airport. However, any tenant at the airport that is on the Manchester side of the airport will pay taxes to the City of Manchester. For example, Wiggins Aviation is on the Manchester side of the airport. They do pay tax revenue to the City.

Commissioner Shaw stated they do pay property taxes into the city revenue. In addition, you're an enterprise fund, and I'm not...how are you governed as to how you can spend the money within an enterprise fund? Are you under the city's employment practices, how you hire, fire, and what you people pay?

Mr. Dillon responded I function the same as any other city department. I'm under all the same budget constraints, procurement constraints, and human resources constraints.

Commissioner Shaw stated okay, thank you very much.

Commissioner Hirschmann stated just a brief question. Mr. Dillon, I don't know if you're aware of this but it's, under the current charter it says that two of the Airport Authority commissioners will have airmen's certificates and one will be a union member. Do you feel those are important issues?

Mr. Dillon responded no, I don't.

Commissioner Hirschmann stated you don't?

Mr. Dillon responded no. I think the level of interaction with the board and commission has no bearing. That experience is not necessary for the function that they provide.

Commissioner Hirschmann stated it's more of a citizen board, that is a layman citizen would be the average type...

Mr. Dillon responded absolutely. I mean, we, certainly we have an airport board that functions in an advisory role today, and there are a lot of individuals on that board that have varied backgrounds that bring a lot to the table, and I benefit certainly from their input, and they serve as a conduit back to the communities that

they serve. But the requirement for an airman's certificate is not... doesn't bring anything to the table for the airport.

Commissioner Hirschmann stated thanks for your input.

Chairman Dykstra stated before we call the next person, I just wanted to make a clarification that even though we're working on the old Charter and using that as a document, I know that's been mentioned several times, I want to make it clear to all departments that, you know, we can use...we'll be working on everything, so if there's something that we find as a Commission that was acceptable, good in the other charter, we certainly can incorporate it. So we're going to be really looking at everything. So I wanted you all to know that everything basically is on the table. That is our working document and that we will try to work and do the best for everyone. Thank you.

Joe Kane, Fire Chief, stated:

Thank you, Madame Chair. I just want to thank you and the Commission for inviting the department heads down to, you know, have their say in regard to the Commission. I want to be very brief. I think that, you know, currently the way the current Commission or Charter is functioning is, it seems to be fine. It seems to be working fine within the Fire Department. We really don't have any specific issues, but I just wanted to have the opportunity to sit here and answer any questions that you may have.

Chairman Dykstra asked do you have any idea whether you'd support an advisory commission or do you feel they should have more power than the Fire Commission? Do you have any...?

Chief Kane responded I think that the Commission the way it works right now in regards to any advisory Commission seems to be working adequately.

Commissioner Shaw asked, Chief, the question I have relates not to the administration of the Fire Department but to the employee perspective that everything is fair and above board. In other words, they don't have at the present time that they had in the past--a Commission that could be for them or against them, you know, so when you have administrative problems, is it you that decides the answer? Or does the Commission have a role as it used to in the past?

Chief Kane responded no, the Commission does not, the Commission does not have a role as it did....You're referring to if there's a issue with an employee. In the past, the employee would go to the union, could file a grievance. That grievance would be heard in front of the Chief. The second opportunity would be that the Commission would have an opportunity to have a hearing, and then finally

an arbitration. The way it currently sits is that the grievant would go right from the Chief to pre-arb and then to arbitration where before there might be an opportunity to go to the Commission.

Commissioner Shaw stated okay, thank you.

Commissioner Pepino stated on your Commission, you have a labor person.

Chief Kane interjected that's correct.

Commissioner Pepino stated like the rest of them do here. What part does that labor person play in your Commission as far as grievances and anything like that at all, cause that is what he is there for? What part would that person play?

Chief Kane responded well, I think, you know, I've seen several people in that role, and different personalities bring different ways that they handle the way they look at grievances and so on and so forth. But currently, under the current Charter, there really is no function for them to do anything.

Commissioner Pepino stated no, I mean, I know what they're there for. I know why they approved that fifteen, twenty years ago.

Chief Kane interjected right.

Commissioner Pepino stated but the way that was approved was that person was there to represent labor, anything to do with labor.

Chief Kane stated that's correct.

Commissioner Pepino stated and I have never heard any commissioner yet say he had any part in anything that represented labor.

Chief Kane responded well, it...to tell you the truth, what it says or what the old commission says is that the person needs to be a card carrying union member. That's what it said. That doesn't, didn't say that they were there representing labor. They just said that they had to be a union member. Not in all cases was that person necessarily there representing labor even though they were a card-carrying member.

Commissioner Hirschmann stated that language is in the new charter as well.

Chief Kane stated yes, it is in the new charter. You're absolutely correct.

Steve Tellier, Chairman of the Board of Assessors and also the Department Head for the Assessors Department, stated:

Good evening ladies and gentlemen, Chairperson Dykstra. I'll keep my comments brief as well. First and foremost, it's been our experience that a full time professional Board of Assessors has served the city well. The first...it was established in 1906, and it has been carried through every ensuing charter since. It's important to note that the present structure utilized in Manchester as was found in a survey is utilized in most of the largest communities in New England as well of comparable size and population and complexity. Two of the most prominent benefits include immediate access to the governing authority and a professional working relationship with the Mayor and Board of Aldermen. A second issue that's evolving as we speak is the state education tax implemented in 1999 and the subsequent recent New Hampshire Supreme Court Sirrell decision in May, 2001. Subsequent legislation adopted and rules that are presently being considered will add a considerable amount of workload to every assessing district and promote more complexity. Assessing offices as a result will require more resources and experience now that the state has adopted a certification program requiring recertification of assessments every four years. As an addendum, Massachusetts requires a three-year certification cycle. Rhode Island and Connecticut have adopted a four-year cycle similar to New Hampshire's. In closing, members of our Board would appreciate an opportunity to share in the future additional issues of significance as the need of the Commission determines or arises upon their request. Thanks for your attention, and I'd like to answer any questions you may have at this time.

Commissioner Pepino asked what would be wrong if you had one assessor in charge and you had a board and by a board I mean an experienced board, not political appointments, and you gave them a small pittance? What would be wrong with something like that with the assessor there being in charge like a department head? He would have a commission not like the other ones want, but he would have a commission to work with him. He would be like the CEO.

Mr. Tellier responded I believe what you're identifying is provided for by state statute either in the form of a part-time volunteer board or appointed board or in Manchester's case is a full-time appointed board of professionals that would under city ordinances meet certification and experience criteria. The part-time board that I believe you're alluding to...there's nothing wrong with it. Nashua uses that format.

Commissioner Pepino asked is that an ordinance or an RSA?

Mr. Tellier responded the RSA requires that under the assessing functions or let's, for want of a better way to put it, let's call it the big "A". The authority and the

responsibility to determine the warrant, grant or deny abatements, grant or deny credits or exemptions being the elderly, disability, or blind. Those are the, the big “A” if you will. The small “a” would be the appraisal functions. The director, for example, in Nashua is the director of assessments, but he has no authority to grant or deny abatements. He has no authority to grant or deny exemptions.

Chairman Dykstra stated all right, one more follow-up. Then we’ll have Commissioner Hirschmann.

Commissioner Pepino asked if the RSA calls for three assessors.

Mr. Tellier responded yes. The RSA specifies a board of three specifically in New Hampshire.

Commissioner Pepino stated thank you.

Commissioner Hirschmann stated what we need from you, Steve, is in writing—I don’t know if it’s going to be your opinion or what but—alluding to structure, you’re a city officer. In the new charter that’s written, do you feel all three assessors, two assessors should be officers? Should the department head, which is you, be an officer of the City? We need direction on structure because right now it says that three assessors will be city officers under appointed city officers. Should that stay that way? Should that change? That’s my question.

Mr. Tellier responded to answer your question, Commissioner, I believe that should remain. The Board shares in the responsibilities and duties by state statute of all of those responsibilities. It doesn’t address in any way compensation, but it just recognizes that they all share those duties and obligations that come with that. No one individual has any more authority on that quasi-judicial board whether that individual be chairman or not.

Commissioner Hirschmann stated my final follow-up is having only two assessors at this point, is that a problem for the Board of Assessors?

Mr. Tellier responded yes, it is.

Commissioner Shaw stated that in the current charter, it says that the Aldermen have control of the structure of departments. Some should go. Some should stay. Do you disagree with that philosophy that if the Mayor—not the Mayor but the Board of Mayor and Aldermen wanted to eliminate a department that that’s wrong? Could we eliminate Highway? Okay, but not eliminate Assessors. That’s not okay. What’s your theory of that?

Mr. Tellier responded there's about 400 pages of statutes alluding to the assessing function and the property tax burden and the responsibilities and duties that go along with that. So whether an official board or a governing body would do away with a department, the tasks and responsibilities must remain. So it would have to constitute either a part-time board or a full-time board under state statute. Those tasks and responsibilities would remain.

Commissioner Cook stated Mr. Tellier, you're familiar with the Nashua system, I know. Where do they find the non-full-time Board of Assessors, and what qualifications do they have to have to serve, do you know?

Mr. Tellier responded in my experience, I worked in the assessing office for the city of Nashua for five years. In my experience there, they looked to people with professional experience such as bankers, the Vice President of Pennichuck, and a former alderman was also a member of that Board of Assessors. So, it would be up to the Commission or the Board of Aldermen to determine if they were to decide to go to a part-time board, what those criteria would be.

Commissioner Cook stated that if I understood you correctly, the distinction was your Board which works full-time can make decisions on abatements and adjustments and what not. In Nashua, they only administered the process and made recommendations to or forwarded things to that Board. So was that...how often did they meet, and was that quicker or slower than the process we have?

Mr. Tellier responded they met usually once a month or as needed in the event of a revaluation year, and if they had a great deal of abatements that had to be heard. And there was a delay in the process. Additionally and probably most important is the fact that if you had a director of assessments who recommended for a change and a part-time board decided not to follow the direction or the recommendation of that director or that appraiser, then what would result would be the appraisal staff would go to the Board of Tax and Land Appeals and be mandated to defend an assessment that they felt really was inappropriate.

Commissioner Pepino stated that now according to you, which I know is true, your department is there as per RSA, right? We have to have your department. Now, let's just say tomorrow, the Board of Mayor and Aldermen wanted to place your department in another department. We'll pick the best one cause he gets everything in the city, Mr. Thomas. Say they wanted to place your department under Mr. Thomas. In other words, he would be your chief executive officer, but under RSA, you're still there. You're still running your division. How would something like that work?

Mr. Tellier responded right now, we have 15 bosses, so to speak. We report to the CEO and a Board of Aldermen, so whether we report to them or we would report to a division head would not be contrary to anything that we're doing now, but the fact remains that as a quasi-judicial board, that oversight can't be exerted in the decision making process. In other words, when you have a part-time board of assessors or a full-time board of assessors, invested in that body by state statute is the authority to grant or deny abatements, to execute the warrant, to grant or deny exemptions as qualified under state law. Those decisions can't be influenced by any body. They have to be executed according to state law, and in an open and professional format.

Commissioner Pepino stated I understand that. I'm just saying if we were to take your department and give it to Mr. Thomas, which they do with everything else in the city, what would be wrong with that? You would still be there by RSA. You would still be carrying out your duties, and you would be working for Mr. Thomas.

Mr. Tellier responded I suppose that could be done. I wouldn't recommend it. For example, if you look at cooperative departments. Let's take an example of the Finance Department, the Tax Collector's Department, and the Assessing Department. The mission of the Finance Department is to make gold out of straw. Their job is to do the best with what they have available and to track it all and report to all governing agencies and to do their job as prescribed by statute. The Tax Collector collects the warrant, without ability to pay, without...they don't have that flexibility. That's their job, by statute. The Board of Assessors is mandated to provide a warrant, to execute a warrant that's fair and appropriate and within state law. Now, the Board of Assessors can't put an assessment depending on the ability to pay. The Finance Department wants to get the biggest return on the largest amount that they have available, and the tax collector needs to collect exactly what's out there. So even though they're joined at the hip, they're directly opposing missions so to speak.

Bill Varkas, Fire Commissioner, stated:

Thank you, Madame Chairman, thank you Commissioners. I lost by about 24 votes being on your Commission. I'm going to start out my remarks by quoting a favorite author of mine. You probably will know who he is right away. He...there's one of his soliloquies were, "To be or not to be. That's the question." And tonight, I say to you, to have commissions with authority, responsibility, or not or to have...I'm sorry or to have commissions that have nothing to do. I don't see any purpose in having people who volunteer to serve the city without pay and just sit around without any responsibilities. It takes away the dignity of the office. I'm very fortunate, this is my...next year will be...this year will be my twelfth year. I've enjoyed every minute of the first six years where we had delineated

authorities. We held hearings of all kinds, negotiations. We had work to do with the hiring and the firing and so forth, promoting. The last six years, only because of the respect and dignity that Joe Kane has shown us, has given me the impetus to stay on the Commission. He has given me specific tasks, and I work with him very closely, but supposing it wasn't Chief Kane? Who knows what would happen? So I believe strongly that you should, if you're going to keep the commissions, please give them specific duties. If you're not, just get rid of them. We don't want to clutter up the City with people sitting around with titles and nothing to do. That's not for efficient function of the City government. So I leave you those remarks. I'm very happy that you're discussing this. This is a great effort for democracy, and if there are any questions, I'd be very happy to answer them.

Commissioner Hirschmann stated Commissioner Varkas, hi; it's Keith Hirschmann.

Mr. Varkas noted ex student of mine.

Commissioner Hirschmann asked, since you've become an advisory commissioner, you don't feel that you've been delegated any tasks worthy of serving?

Mr. Varkas responded well, as I mentioned Commissioner Hirschmann, it's only because of the character and personality of Chief Kane that has kept this Commission feeling like they have some importance, but that's not in writing, and it depends on personalities. So if Chief Kane goes, what happens to the Commission? There's nothing specific about what we're supposed to do, and I think the new Charter says we can act on the advice of or instruction of the Board of Aldermen. I've been there six years, and I haven't heard any instructions yet, so I don't think they're forthcoming.

Chairman Dykstra stated that was one of my questions I was going to ask you, cause the charter does allow them to get advice or ask advice or commissions, and you're telling me that they have never asked for any advice from the Fire Commission on any concerns that they had or any appointments?

Mr. Varkas responded we have meetings, and we discuss things. The Chief and his staff keeps us informed of what is happening, but still we have no authority. We just listen.

Chairman Dykstra interjected...but the Board of Mayor and Aldermen; they do not ask you for any advice or any...

Mr. Varkas responded no, we never heard from the Board of Mayor and Aldermen. The only thing that we get from the Board, I mean that we have with the Board of Aldermen, we send them a copy of our minutes every month.

Commissioner Hirschmann stated just a comment. Just for everybody, a comment. Being a former Alderman, I always held the Fire Commissioners in high respect, and during the budget deliberations, I think the Aldermen certainly listened to the advisory Commissioners with regard to funding and departmental items, so I do want you to know that.

Mr. Varkas responded thank you.

Carol Johnson, Deputy City Clerk speaking on behalf of City Clerk Leo Bernier and Chairman of the Board of Registrars D. G. Krasner, stated:  
Good evening Madame Chair and members of the Commission, it's a little strange sitting out here, so bear with me. There is a handout that you've been provided. Leo did send in a statement to you, and I just sort of want to read it into the record for you, and I am available to answer questions on it although he's probably the better person to ask the questions of. And then after that, I also have a couple of other things to bring forward to you. Though I am unable to attend the hearing this evening, I requested Carol Johnson to submit my comments. I apologize for any inconvenience my conflicting schedule presents to the Commission. First, it's my understanding that the Commission has requested the City Clerk file a report regarding post-election procedures. Unfortunately, there was insufficient time to produce a complete report, but I will submit one to you at a later date and can perhaps more fully address election issues at that time. Tonight I would like to submit general comments broken out into categories. Non-partisan primaries. I would suggest that if the elections remain non-partisan that no primary be held. Non-partisan primaries produce a voter turnout of less than ten percent, and eliminating them would save a cost to the City. A run-off of all candidates could be conducted in November; the candidate receiving the highest number of votes would win the election for each office. If the Commission elected to continue non-partisan primaries, I would suggest that the primary be held for all offices. Voters become confused as to whether the candidate for whom they are supporting is going to appear on the ballot. I believe it would also increase participation in the voting process for the primaries. Section 5.19 Domicile (old charter). For election purposes there should be reference perhaps to the state law definition of domicile for which there is presently new legislation being introduced at the State Legislature. Ward Boundaries. A description of the ward boundaries should be maintained in the Charter. If there is no description in the Charter, the Legislature can change the City's ward boundaries at any time or the Aldermen could change it by ordinance. The recent redistricting at the state level was ultimately ruled by the courts. The end result for state elections is that Ward 6 contains voters in three

different House districts. Legislation to fix that problem is being introduced. Officers. The City Clerk is designated by law to be appointed by the Council under law, which translates to the Board of Mayor and Aldermen together as one body. There are statutory differences because of the "Chief Election Officer" and statutory mandates that place the position as in essence an agent of the state for vital records and other purposes. Chapter 48 of the State statutes designates the City Clerk as an Officer. Deputies. I believe the old charter section 3.24 should be placed in the new charter if it is not considered contrary to law. It empowers the City Clerk to appoint deputies, which becomes critical at such times as elections. Applicability of Statutes and Election Materials. Sections in both the old and new charter relating to state election laws, forms, and ballots do not state anything with regard to special municipal elections. Reference is only made to primary and general municipal elections and those are defined as the September and November elections. There should be a reference to special municipal elections if one is called for instance to fill a vacancy on the Board of Aldermen, Mayor, or Commissioner of Welfare if there is a possibility under the revised charter presented that a special election could be called. It should also be noted that Section 5.37 (b) ballot form and section 5.32 (b) in the last two charters are different with regard to the order that the names appear on the ballot. As the Commission continues its work and makes some decisions, I will be happy to review other areas of the Charter and submit information that will hopefully assist the Commission in completion of its task. And I will be happy to meet with the Commission at a later date if it so desires.

Commissioner Duffy stated, Carol, in the non-partisan primaries section, just a point of clarification. The first sentence says that, suggesting that if elections remain non-partisan, no primary be held. And in the second paragraph it says if you continue non-partisan primaries, then we suggest the primary be held for all offices. That's suggesting that some aren't?

Deputy Clerk Johnson responded at this point in time, the way the Charter is written, in essence it's a nominating process. If there is, for instance in the office of Alderman, only two people that are running for office, there is only one person to be selected, so therefore those people move on to the November election, and there is no primary. There may be a primary for a lower office or a higher office, but there is none for that. And that is what becomes confusing to the voters.

Commissioner Soucy stated so Carol, just so that I'm clear, if we were to have primaries, even if only one candidate filed, there would then be the opportunity at the primary for a write-in which there isn't now, if you only have one.

Deputy Clerk Johnson responded that's right. And that obviously, you would have write-in candidacy in any primary, there's always...any election, you're going to have write-in vote opportunity, so yes.

Commissioner Soucy stated that because now under the present system, if you aren't listing the names because there isn't a primary because fewer than two people have filed for an office such as alderman, there isn't even that opportunity.

Deputy Clerk Johnson responded there is no opportunity for write-ins, that is correct.

Commissioner Hirschmann stated that the School Committee candidates are non-partisan, and I believe if there were partisan elections, they would still remain non-partisan. So would they only run off in November?

Deputy Clerk Johnson responded the old Charter does have a provision that relates to the School Board as well. I think it would follow the same pattern. I think you need to address that issue one way or the other. And yes, you're right, School Board is a non-partisan election, at least at this time. The old Charter did address that because if you look at the old Charter, and I'm doing this off the top of my head so I'll apologize if it isn't exactly right, but it states that the primaries will be held, but it also has a separate statement for the School Board. So in essence if you did the School Board, you could do it the same way as what we have suggested. It should be consistent, I think, in either case. You could place them on or not place them on, depending on how you write your Charter, but it's just something that we gave you food for thought on to think about, and then you can make your decisions. The only thing I would forewarn on School District is we probably should have the Solicitor review certain criteria of law, cause School District obviously is such a separate entity under the law.

Commissioner Shaw stated on page two, you have under section Officers, City Clerk is designated by law to be appointed by the Council.

Deputy Johnson stated yes.

Commissioner Shaw stated my question would be—who says who can nominate?

Deputy Clerk Johnson responded that it's clearly stated in the state law, and the state law states that it shall be as one body so the transference to Manchester would be the Board of Mayor and Aldermen.

Commissioner Shaw interjected may appoint and vote for. The Board of Mayor and Aldermen, the 15 people, can vote for.

Deputy Clerk Johnson responded that at present, it would be all 15 members.

Commissioner Shaw asked and does that say that the 15 members get the appointing, I mean the nomination authority versus the you know...

Deputy Johnson responded I would have to look at the law further. I think the point was is that he did not, that the department heads are, no I believe the nominating process was part of that as well because I think that was Leo's point, but he could speak to it further.

Commissioner Shaw stated well, maybe the prior charters were misled as to the thought that who...being appointed is a vote, you know in other words, the body takes a vote.

Deputy Clerk Johnson stated I understand, yes.

Commissioner Shaw continued, and they have 15 votes, but are the 15 members allowed one by one, the 15, to make a nomination to fill?

Deputy Clerk Johnson stated to be honest, I would have to go back and look at the law to see if it's...I think it states "elected" and if it states "elected", then that would be a different...it would have to be all 15. I would have to go back and look at the law.

Commissioner Shaw stated it makes a major difference because if you had a system where you believed the Mayor should make all nominations and the Board should appoint, okay, nobody gets a job till the Board makes their vote.

Deputy Clerk Johnson responded I think Leo's point on this was that if the Commission is going to change anything in the current Charter with regards to the City Clerk, that they review that chapter.

Commissioner Shaw stated, a further point, though, what is the difference between an officer of the City of Manchester versus a Department Head of the City of Manchester? What, what rights and benefits does an officer have that is different than a department head?

Deputy Clerk Johnson responded I'm not the city clerk so...I mean I can take a stab a little bit at some of the differences. I think as the city perceives it, I think at least for the city clerks, from the city clerk's perspective, department heads are at present nominated by the Mayor and confirmed the Board of Aldermen. That is not the case obviously with the City Clerk. The City Clerk does not report to the

Mayor. The City Clerk reports to the Board of Mayor and Aldermen. There is a difference. The City Clerk is not in a position, the same position I think as all department heads in terms of how those, what powers and duties he has to exercise in the course of his duties much like the Finance Officer is. There are statutes that are provided that are a little different. In terms of specific powers and duties, I would have to research that further for you, and I actually would ask the Solicitor's Office to help us with that one.

Commissioner Duffy stated just a quick one on these ward boundaries since they were either introduced or reintroduced in this last Charter. From a procedural standpoint, couldn't they be an appendix or something? It seems cumbersome to have them embedded in the Charter itself.

Deputy Clerk Johnson stated I guess that's something that we probably should ask legal about. I know that it's important that they are defined, and whether they're defined through an appendix or whether they are defined...I mean I think that even if it's an appendix, it has to be the full language of boundary. But in terms of how that gets presented as part of the Charter, you know, the script of the Charter, perhaps we could confer with the Solicitor on that.

Chairman Dykstra asked any further questions? Thank you, Carol.

Deputy Clerk Johnson stated now, can I put on another hat for you?

Chairman Dykstra asked which one.

Deputy Clerk Johnson stated Dorothy Krasner, who is the Chair of the Board of Registrars, did submit to me an e-mail with regards to appearing before the Commission, and she could not make it this evening, but she did make a few comments, and I just wanted to share those with the Commission. She states here that for the period I have been on the Board of Voter Registration, my observation is that the present system operating under the State of New Hampshire statutes and regulations on voter registration and the provisions of the City Charter that affect voter registration is adequate. I see no need to amend the Charter in regard to voter registration procedure. There will be several bills on voter registration and voting coming in the legislative session. We must wait to see what, if anything, changes at the State level before we make any changes in the Charter. I just wanted to share those comments with you. I think you were provided a copy of them, and I guess I just wanted to make one other comment, and that was a comment, a follow-up to something that Kevin Dillon stated to you earlier about chargebacks that the airport is paying for. In the case of the Clerk's office, which is different from other offices because we do work with the Board, when the airport holds a meeting with the special Airport Committee, we charge that time

directly off to the airport. It is part of the chargeback that the City does, and they do pay for that time. If we have something that is extremely long or a presentation that comes to the Board, that is specifically for the airport, we charge the airport for that time and that transcription time as well. In the case of day to day city administration, we do not go back and charge them for instance if we place a bond resolution on an agenda. It is part of our administrative responsibility to the City as a whole, and therefore, and it would cost us more time in trying to break out how much time somebody took typing in, you know, a paragraph here or there. So we don't charge that time back. And I guess I wanted to make that comment because I think it goes back to some of what Kevin was indicating about reporting to the Board as a whole. It is the City as a whole that some of those ancillary services might be different if there were a completely separate authority than what they are now. So I just wanted to point that out.

There being no one else present wishing to speak, on motion of Commissioner Soucy, duly seconded by Commissioner Cook, it was voted to take all comments under advisement and further to receive and file any written documentation presented.

This being a special meeting of the Commission, no further business was presented and on a motion of Commissioner Cook, duly seconded by Commissioner Soucy, it was voted to adjourn.

Respectfully submitted,

Deputy City Clerk

Approved for Commission: \_\_\_\_\_  
Donna M. Soucy, Secretary